

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.717 OF 2006

Chotellal Ramraj Patel ..Petitioner

Vs.

Prakash Cotton Mill Ltd. ..Respondents

Mr.A.K.Singh for the petitioner

CORAM : S.U.KAMDAR, J
DATED : 27TH MARCH, 2006

P.C.:

1. Admittedly the petitioner is not a permanent employee and is a temporary employee. He was removed from the service on the ground of theft. There was a criminal case instituted before the Metropolitan Magistrate's Court under section 381 r/w s.380 of the Indian Penal Code being case no.10/P/90. The petitioner contended that in view of the acquittal of the petitioner which was passed by the Metropolitan Magistrate's Court by giving the benefit of doubt by order and judgment dt.18.6.98, the petitioner should be reinstated.

2. I have perused the Judgment passed by the Labour Court. Labour Court has given a finding that the petitioner has not been a permanent

employee. Labour Court has further given a finding that as per the evidence laid before the Labour Court, the case of misconduct of theft has been proved. However, still labour court granted 50% back wages. Being aggrieved by the said orders, appeals were filed before the Industrial Court both by the workmen as well as employer, after considering the material at depth, the appeal preferred by the workman was dismissed where as an appeal preferred by the employer is allowed by order and judgment dt.14.2.00. It was only after 6 years that the present writ petition has been filed. There has been a substantial delay. Apart from the delay on merits. I am of the opinion that the petitioner has not made out any case for interference. Acquittal by the Metropolitan Magistrate's Court merely on the ground of benefit of doubt cannot give any right to the petitioner to be reinstated in the job. Furthermore in view of the fact that admittedly the workman was a temporary employee and that the management has been able to establish by leading evidence before the Labour Court charge of theft it is not possible to come to different conclusion by reappreciating the

evidence. In view thereof, petition fails and is dismissed.